

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BARBARA BROWN,

Plaintiff,

DECISION AND ORDER
07-CV-312A

v.

PLP, II, and
JOSEPH D. PALERMO,

Defendants.

The above-referenced case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1). On June 9, 2011, Magistrate Judge Schroeder filed a Report and Recommendation (Dkt. No. 62), recommending that defendants' motion for summary judgment be denied.

Defendants filed objections to the Report and Recommendation on July 25, 2011. Plaintiff filed a response to defendants' objections on August 9, 2011. Defendants filed reply papers on August 15, 2011. The Court has deemed the matter submitted on papers pursuant to Rule 78(b) of the Federal Rules of Civil Procedure.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon a *de novo* review of the Report and

Recommendation, and after reviewing the submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, defendants' motion for summary judgment (Dkt. No. 43) is denied.

The parties are directed to appear before the Court on **Friday, September 23, 2011 at 9:00 a.m.** for a status conference to set a trial date.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: September 12, 2011